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Honorable Christopher M. Alston
Chapter 13

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF WASHINGTON

POMEROY, Rebecca Anna
Debtor.

Number 17-13739

Adversary Number: 18-

POMEROY, Rebecca Anna
Plaintiff,

V.

**COMPLAINT TO DETERMINE
VALIDITY AND EXTENT OF
LIEN**

**SAFECO INSURANCE COMPANY
OF AMERICA INC., A LIBERTY
MUTUAL COMPANY**
Defendant.

Rebecca Anna Pomeroy (hereinafter "Plaintiff") alleges as follows:

1. Jurisdiction

1. That this Court has jurisdiction over this proceeding pursuant to 28 U.S.C. 1334 & 28 U.S.C. 157(b)(2)(G). This matter relates to a case under Title 11 of the United States Code. This proceeding is defined as a "core proceeding" as that is defined in the Code. The Plaintiff consents to entry of final orders or judgment by the bankruptcy court in this adversary proceeding.

Complaint- 1

Law Offices of Travis Gagnier, Inc., P.S
33507 Ninth Avenue South, Bldg. F
P.O. Box 3949
Federal Way, WA 98063-3949
Phone: (253) 941-0234 Fax: 941-0476

2. History

2. That the Plaintiff filed her Chapter 13 bankruptcy case in the United States bankruptcy court for the Western District of Washington on August 24, 2017 under case number 17-13739

3. That this Court upon the filing of the Petition duly entered an Order for Relief under the provisions of the Bankruptcy Code.

4. That K. Michael Fitzgerald was appointed the chapter 13 Trustee in the Plaintiff's Chapter 13 case and serves in that capacity in this case.

5. That at all times material herein Defendant, Safeco Insurance Company of America Inc., A Liberty Mutual Company (hereinafter "Defendant" or "Safeco") has conducted business in the State of Washington.

3. Factual Allegations

6. That at all times material herein the Plaintiff had in effect an automobile policy of insurance in regards to Plaintiff's automobile as evidenced by Policy Number H2260735 with Defendant.

7. That on or about the 31st day of October 2015, Plaintiff was involved in an automobile accident (hereinafter "Accident") in King County Washington.

8. Due to the Accident, Plaintiff incurred medical expenses. Defendant paid some of medical expenses under that portion of the Safeco's automobile policy known as Personal Injury Protection (hereinafter "PIP"). Upon making said payments Defendant established a claim known internally by Defendant as Safeco "Claim No. 103632806002".

9. That subsequent to the Accident, Plaintiff employed attorney David S. Heller to represent her in pursuing a claim against the tortfeasor.

10. The tortfeasor's insurer, Geico, has offered to settle the Plaintiff's claim for the sum

1 of \$12,400.00 (hereinafter "Settlement Proceeds").

2 11. Defendant may claim a lien on any Settlement Proceeds paid by Geico and or any
3 judgment obtained against the tortfeasor based upon its payment of certain medical bills arising
4 out of the Accident and Safeco's above referenced insurance policy (including but not limited to
5 payments made under PIP) although it did not yet filed a proof of claim in the Pomerory Chapter
6 13 bankruptcy proceeding.

7
8 4. Prayer for Relief

9 WHEREFORE, Plaintiff respectfully prays for the following relief:

- 10 1. That this Court entered a Judgment declaring that Defendant does not have a valid
11 and enforceable lien or right to payment from the Settlement Proceeds and or judgment.
12 2. That Plaintiff have such further and other relief as the Court deems just and proper.

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14 Dated this 25th day May 2018

15 Law Offices of Travis Gagnier, Inc., P.S.
16 Attorneys for Plaintiff

17 /s/ Travis A. Gagnier
18 Travis A. Gagnier, WSBA #26379
19 Gregory Jalbert, WSBA #9480
20 Of Counsel
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